

UTAH CODE
(UNANNOTATED)

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF SOLID AND HAZARDOUS WASTE

ENVIRONMENTAL QUALITY CODE
GENERAL PROVISIONS

(Title 19, Chapter 1, Parts 1 - 4)
(Last Revised: 2008)



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Title 19 Chapter 1

ENVIRONMENTAL QUALITY CODE

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19-1-101. Short title.

This title is known as the "Environmental Quality Code."

19-1-102. Purposes.

The purpose of this title is to:

- (1) clarify the powers and duties of the Department of Environmental Quality in relationship to local health departments;
- (2) provide effective, coordinated management of state environmental concerns;
- (3) safeguard public health and quality of life by protecting and improving environmental quality while considering the benefits to public health, the impacts on economic development, property, wildlife, tourism, business, agriculture, forests, and other interests, and the costs to the public and to industry; and
- (4) (a) strengthen local health departments' environmental programs;
- (b) build consensus among the public, industry, and local governments in developing environmental protection goals; and
- (c) appropriately balance the need for environmental protection with the need for economic and industrial development.

19-1-103. Definitions.

As used in this title:

- (1) "Department" means the Department of Environmental Quality.
- (2) "Executive director" means the executive director of the department appointed pursuant to Section 19-1-104.
- (3) "Local health department" means a local health department as defined in Title 26A, Chapter 1, Part 1.
- (4) "Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state.

19-1-104. Creation of department -- Appointment of executive director.

- (1) There is created within state government the Department of Environmental Quality. The department shall be administered by an executive director.
- (2) The executive director shall be appointed by the governor with the consent of the Senate and shall serve at the pleasure of the governor.
- (3) The executive director shall have demonstrated the necessary administrative and professional ability through education and experience to efficiently and effectively manage the department's affairs.
- (4) The Legislature shall fix the compensation of the executive director in accordance with Title 67, Chapter 22, State Officer Compensation.

19-1-105. Divisions of department -- Control by division directors.

- (1) The following divisions are created within the department:

- (a) the Division of Air Quality, to administer Title 19, Chapter 2;
 - (b) the Division of Drinking Water, to administer Title 19, Chapter 4;
 - (c) the Division of Environmental Response and Remediation, to administer Title 19, Chapter 6, Parts 3 and 4;
 - (d) the Division of Radiation, to administer Title 19, Chapter 3;
 - (e) the Division of Solid and Hazardous Waste, to administer Title 19, Chapter 6, Parts 1, 2, and 5; and
 - (f) the Division of Water Quality, to administer Title 19, Chapter 5.
- (2) Each division is under the immediate direction and control of a division director appointed by the executive director.
 - (3) Each division director shall possess the necessary administrative skills and training to adequately qualify him for his position. He shall have graduated from an accredited college or university with:
 - (a) a four-year degree in physical or biological science or engineering;
 - (b) a related degree; or
 - (c) a degree in law.
 - (4) Each director may be removed at the will of the executive director.

19-1-106. Boards within department.

- (1) The following policymaking boards are created within the department:
 - (a) the Air Quality Board, appointed under Section 19-2-103;
 - (b) the Radiation Control Board, appointed under Section 19-3-103;
 - (c) the Drinking Water Board, appointed under Section 19-4-103;
 - (d) the Water Quality Board, appointed under Section 19-5-103; and
 - (e) the Solid and Hazardous Waste Control Board, appointed under Section 19-6-103.
- (2) The authority of the boards created in Subsection (1) is limited to the specific authority granted them under this title.

19-1-108. Creation of Environmental Quality Restricted Account -- Purpose of restricted account -- Sources of funds -- Uses of funds.

- (1) There is created the Environmental Quality Restricted Account.
- (2) The sources of monies for the restricted account are:
 - (a) radioactive waste disposal fees collected under Sections 19-3-106 and 19-3-106.4 and other fees collected under Subsection 19-3-104(5);
 - (b) hazardous waste disposal fees collected under Section 19-6-118;
 - (c) PCB waste disposal fees collected under Section 19-6-118.5;
 - (d) nonhazardous solid waste disposal fees collected under Section 19-6-119; and
 - (e) all investment income derived from money in

the restricted account created in this section.

(3) In each fiscal year, the first \$400,000 collected from all waste disposal fees listed in Subsection (2), collectively, shall be deposited in the General Fund as free revenue. The balance shall be deposited in the restricted account created in this section.

(4) The Legislature may annually appropriate monies from the Environmental Quality Restricted Account to:

(a) the department for the costs of administering radiation control programs;

(b) the department for the costs of administering solid and hazardous waste programs; and

(c) the Hazardous Substances Mitigation Fund, up to \$400,000, for purposes set forth in Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act.

(5) In order to stabilize funding for the radiation control program and the solid and hazardous waste program, the Legislature shall in years of excess revenues reserve in the restricted account sufficient monies to meet departmental needs in years of projected shortages.

(6) The Legislature may not appropriate money from the General Fund to the department as a supplemental appropriation to cover the costs of the radiation control program and the solid and hazardous waste program in an amount exceeding 25% of the amount of waste disposal fees collected during the most recent prior fiscal year.

(7) The Legislature may annually appropriate not more than \$200,000 from this account to the Department of Public Safety, created in Section 53-1-103, to be used by that department solely for hazardous materials:

(a) management training; and

(b) response preparation and emergency response training.

(8) All funds appropriated under this part that are not expended at the end of the fiscal year lapse into the account created in Subsection (1).

19-1-201. Powers of department.

(1) The department shall:

(a) enter into cooperative agreements with the Department of Health to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(b) consult with the Department of Health and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups; and

(c) coordinate implementation of environmental programs to maximize efficient use of resources by developing, with local health departments, a Comprehensive Environmental Service Delivery Plan that:

(i) recognizes that the department and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal,

state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually.

(2) The department may:

(a) investigate matters affecting the environment;

(b) investigate and control matters affecting the public health when caused by environmental hazards;

(c) prepare, publish, and disseminate information to inform the public concerning issues involving environmental quality;

(d) establish and operate programs, as authorized by this title, necessary for protection of the environment and public health from environmental hazards;

(e) use local health departments in the delivery of environmental health programs to the extent provided by law;

(f) enter into contracts with local health departments or others to meet responsibilities established under this title;

(g) acquire real and personal property by purchase, gift, devise, and other lawful means;

(h) prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the Legislature;

(i) (i) establish a schedule of fees that may be assessed for actions and services of the department according to the procedures and requirements of Section 63J-1-303; and

(ii) in accordance with Section 63J-1-303, all fees shall be reasonable, fair, and reflect the cost of services provided;

(j) prescribe by rule reasonable requirements not inconsistent with law relating to environmental quality for local health departments;

(k) perform the administrative functions of the boards established by Section 19-1-106, including the acceptance and administration of grants from the federal government and from other sources, public or private, to carry out the board's functions; and

(l) upon the request of any board or the executive secretary, provide professional, technical, and clerical staff and field and laboratory services, the extent of which are limited by the funds available to the department for the staff and services.

19-1-202. Duties and powers of the executive director.

(1) The executive director shall:

(a) administer and supervise the department;

(b) coordinate policies and program activities conducted through boards, divisions, and offices of the department;

(c) approve the proposed budget of each board, division, and office within the department;

(d) approve all applications for federal grants or assistance in support of any department program; and

(e) with the governor's specific, prior approval,

expend funds appropriated by the Legislature necessary for participation by the state in any fund, property, or service provided by the federal government.

(2) The executive director may:

(a) issue orders to enforce state laws and rules established by the department except where the enforcement power is given to a board created under Section 19-1-106, unless the executive director finds that a condition exists which creates a clear and present hazard to the public health or the environment and which requires immediate action, and if the enforcement power is vested with a board created under Section 19-1-106, the executive director may with the concurrence of the governor order any person causing or contributing to the condition to reduce, mitigate, or eliminate the condition;

(b) with the approval of the governor, participate in the distribution, disbursement, or administration of any fund or service, advanced, offered, or contributed by the federal government for purposes consistent with the powers and duties of the department;

(c) accept and receive funds and gifts available from private and public groups for the purposes of promoting and protecting the public health and the environment and expend the funds as appropriated by the Legislature;

(d) make policies not inconsistent with law for the internal administration and government of the department, the conduct of its employees, and the custody, use, and preservation of the records, papers, books, documents, and property of the department;

(e) create advisory committees as necessary to assist in carrying out the provisions of this title;

(f) appoint division directors who may be removed at the will of the executive director and who shall be compensated in an amount fixed by the executive director;

(g) advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, affected groups, political subdivisions, and industries in carrying out the purposes of this title;

(h) consistent with Title 67, Chapter 19, Utah State Personnel Management Act, employ employees necessary to meet the requirements of this title;

(i) authorize any employee or representative of the division to conduct inspections as permitted in this title;

(j) encourage, participate in, or conduct any studies, investigations, research, and demonstrations relating to hazardous materials or substances releases necessary to meet the requirements of this title;

(k) collect and disseminate information about hazardous materials or substances releases; and

(l) review plans, specifications, or other data relating to hazardous substances releases as provided in this title.

19-1-203. Representatives of department authorized to enter regulated premises.

(1) Authorized representatives of the department, upon presentation of appropriate credentials, may enter at reasonable times upon the premises of properties regulated

under this title to perform inspections to insure compliance with rules made by the department.

(2) The inspection authority provided in this section does not apply to chapters in this title which provide for specific inspection procedures and authority.

19-1-204. Legal advice and representation for department.

(1) The attorney general is the legal adviser for the department and the executive director and shall defend them in all actions and proceedings brought against either of them.

(2) The attorney general or the county attorney of the county in which a cause of action arises or a public offense occurs shall bring any civil or criminal action requested by the executive director or any board created in Section 19-1-106 to abate a condition which exists in violation of, or to prosecute for the violation of or for the enforcement of, the laws or standards, orders, and rules of the department.

19-1-205. Assumption of responsibilities.

The department assumes all the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities of the Division of Environmental Health, the Air Conservation Committee, the Solid and Hazardous Waste Committee, the Utah Safe Drinking Water Committee, and the Water Pollution Control Committee previously vested in the Department of Health and its executive director:

(1) including programs for individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies; but

(2) excluding all other sanitation programs, which shall be administered by the Department of Health.

19-1-301. Adjudicative proceedings.

The department and its boards shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

19-1-302. Violation of laws and orders unlawful.

It is unlawful for any person:

(1) to violate the provisions of the laws of this title or the terms of any order or rule issued under it; or

(2) to fail to remove or abate from private property under the person's control at his own expense within 48 hours, or such other reasonable time as the department determines, after being ordered to do so, any nuisance, source of filth, or other sanitation violation.

19-1-303. Criminal and civil penalties -- Liability for violations.

(1) (a) Any person who violates any provision of this title or lawful orders or rules adopted under this title by the department shall:

(i) in a civil proceeding be assessed a penalty not to exceed the sum of \$5,000; or

(ii) in a criminal proceeding:

(A) for the first violation, be guilty of a class B

misdemeanor; and

(B) for a subsequent similar violation within two years, be guilty of a class A misdemeanor.

(b) In addition, a person is liable for any expense incurred by the department in removing or abating any violation.

(2) Assessment or conviction under this title does not relieve the person assessed or convicted from civil liability for any act which was also a violation of the public health laws.

(3) Each day of violation of this title or rules made by the department under it may be considered a separate violation.

(4) The enforcement procedures and penalties provided in Subsections (1) through (3) do not apply to chapters in this title which provide for other specific enforcement procedures and penalties.

(5) Unless otherwise specified in statute, the department shall deposit all civil penalties and fines imposed and collected under this title into the General Fund.

19-1-304. Principal and branch offices of department.

(1) The principal office of the department shall be in Salt Lake County.

(2) The department may establish branch offices at other places in the state to furnish comprehensive and effective environmental programs and to coordinate with and assist local health officers.

19-1-305. Administrative enforcement proceedings - Tolling of limitation period.

Issuing a notice of a violation, an order, or a notice of agency action under this title tolls the running of the period of limitation for commencing a civil action to assess or collect a penalty until the sooner of:

(1) the day on which the notice of violation, order, or agency action becomes final under Title 63G, Chapter 4, Administrative Procedures Act; or

(2) three years from the day on which the department issues a notice or order described in this section.

19-1-306. Records of the department.

(1) Except as provided in this section, records of the department shall be subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(2) (a) The standards of the federal Freedom of Information Act, 5 U.S.C. Sec. 552, and not the standards of Subsections 63G-2-305(1) and (2), shall govern access to records of the department for which business confidentiality has been claimed under Section 63G-2-309, to the extent those records relate to a program:

(i) that is delegated, authorized, or for which primacy has been granted to the state;

(ii) for which the state is seeking delegation, authorization, or primacy; or

(iii) under the federal Comprehensive Environmental Response, Compensation, and Liability Act.

(b) The regulation of the United States

Environmental Protection Agency interpreting the federal Freedom of Information Act, as it appeared at 40 C.F.R. Part 2 on January 1, 1992, shall also apply to the records described in Subsection (1).

(3) (a) The department may, upon request, make trade secret and confidential business records available to the United States Environmental Protection Agency insofar as they relate to a delegated program, to a program for which the state is seeking delegation, or to a program under the federal Comprehensive Environmental Response, Compensation and Liability Act.

(b) In the event a record is released to the United States Environmental Protection Agency under Subsection (3)(a), the department shall convey any claim of confidentiality to the United States Environmental Protection Agency and shall notify the person who submitted the information of its release.

(4) Trade secret and confidential business records under Subsection (2) shall be managed as protected records under the Government Records Access and Management Act, and all provisions of that act shall apply except Subsections 63G-2-305(1) and (2).

(5) Records obtained from the United States Environmental Protection Agency and requested by that agency to be kept confidential shall be managed as protected records under the Government Records Access and Management Act, and all provisions of that act shall apply except to the extent they conflict with this section.

19-1-307. Evaluation of closure, postclosure, and perpetual care and maintenance for hazardous waste and radioactive waste treatment and disposal facilities -- Report.

(1) (a) Beginning in 2006, the Solid and Hazardous Waste Control Board created in Section 19-1-106 shall direct an evaluation every five years of:

(i) the adequacy of the amount of financial assurance required for closure and postclosure care under 40 C.F.R. subpart H, Sections 264.140 through 264.151 submitted pursuant to a hazardous waste operation plan for a commercial hazardous waste treatment, storage, or disposal facility under Section 19-6-108; and

(ii) the adequacy of the amount of financial assurance or funds required for perpetual care and maintenance following the closure and postclosure period of a commercial hazardous waste treatment, storage, or disposal facility, if found necessary following the evaluation under Subsection (1)(c).

(b) The evaluation shall determine:

(i) whether the amount of financial assurance required is adequate for closure and postclosure care of hazardous waste treatment, storage, or disposal facilities;

(ii) whether the amount of financial assurance or funds required is adequate for perpetual care and maintenance following the closure and postclosure period of a commercial hazardous waste treatment, storage, or disposal facility, if found necessary following the evaluation under Subsection (1)(c); and

(iii) the costs above the minimal maintenance and monitoring for reasonable risks that may occur during closure, postclosure, and perpetual care and maintenance of

commercial hazardous waste treatment, storage, or disposal facilities including:

- (A) groundwater corrective action;
 - (B) differential settlement failure; or
 - (C) major maintenance of a cell or cells.
- (c) The Solid and Hazardous Waste Control

Board shall evaluate in 2006 whether financial assurance or funds are necessary for perpetual care and maintenance following the closure and postclosure period of a commercial hazardous waste treatment, storage, or disposal facility to protect human health and the environment.

(2) (a) Beginning in 2006, the Radiation Control Board created in Section 19-1-106 shall direct an evaluation every five years of:

- (i) the adequacy of the Radioactive Waste Perpetual Care and Maintenance Fund; and
 - (ii) the adequacy of the amount of financial assurance required for closure and postclosure care of commercial radioactive waste treatment or disposal facilities under Subsection 19-3-104(12).
- (b) The evaluation shall determine:
- (i) whether the fund is adequate to provide for perpetual care and maintenance of commercial radioactive waste treatment or disposal facilities;
 - (ii) whether the amount of financial assurance required is adequate to provide for closure and postclosure care of commercial radioactive waste treatment or disposal facilities;
 - (iii) the costs under Subsection 19-3-106.2(5)(b) of using the Radioactive Waste Perpetual Care and Maintenance Fund during the period before the end of 100 years following final closure of the facility for maintenance, monitoring, or corrective action in the event that the owner or operator is unwilling or unable to carry out the duties of postclosure maintenance, monitoring, or corrective action; and
 - (iv) the costs above the minimal maintenance and monitoring for reasonable risks that may occur during closure, postclosure, and perpetual care and maintenance of commercial radioactive waste treatment or disposal facilities including:

- (A) groundwater corrective action;
 - (B) differential settlement failure; or
 - (C) major maintenance of a cell or cells.
- (3) The boards under Subsections (1) and (2)

shall submit a joint report on the evaluations to the Legislative Management Committee on or before October 1 of the year in which the report is due.

19-1-401. Title.

This part is known as the "Clean Fuels and Vehicle Technology Program Act."

19-1-402. Definitions.

As used in this part:

- (1) "Clean fuel" means:
 - (a) propane, natural gas, or electricity;
 - (b) other fuel the Air Quality Board certifies, as authorized by Subsection 19-1-405(1)(d), to be at least as effective in reducing air pollution as fuels under Subsection (1)(a); or

(c) other fuel that meets the clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.

(2) "Clean fuel vehicle" means a vehicle that:

(a) uses a clean fuel; and

(b) meets clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.

(3) "Electric-hybrid vehicle" means a vehicle:

(a) primarily powered by an electric motor that draws current from:

- (i) rechargeable storage batteries;
- (ii) fuel cells; or
- (iii) other sources of electric current; and

(b) also operates on or is capable of operating on a nonelectrical source of power.

(4) "Fuel system" means tanks, pumps, hoses, injectors, electronic controls, and related components that deliver fuel or energy or both to a motor used to propel a vehicle.

(5) "Fund" means the Clean Fuels and Vehicle Technology Fund created in Section 19-1-403.

(6) (a) "Government vehicle" means a motor vehicle:

- (i) registered in Utah; and
- (ii) owned and operated by:
 - (A) the state;
 - (B) a public trust authority;
 - (C) a school district;
 - (D) a county; or
 - (E) a municipality.

(b) "Government vehicle" includes a metropolitan rapid transit motor vehicle, bus, truck, law enforcement vehicle, or emergency vehicle.

(7) "Incremental cost" means the difference between the cost of the OEM vehicle and the same vehicle model manufactured without the clean fuel fueling system.

(8) "OEM vehicle" means a vehicle manufactured by the original vehicle manufacturer or its contractor to use a clean fuel.

(9) "Private sector business vehicle" means a motor vehicle registered in Utah that is owned and operated solely in the conduct of a private business enterprise.

(10) "Refueling equipment" means compressors when used separately, compressors used in combination with cascade tanks, and other equipment that constitute a central refueling system capable of dispensing vehicle fuel.

(11) "Retrofit" means conversion or augmentation of an existing motor, fuel system, exhaust system, or related components to systems that lead to a reduction in air pollution.

19-1-403. Clean Fuels Vehicle and Vehicle Technology Fund -- Contents -- Loans or grants made with fund monies.

(1) (a) There is created a revolving fund known as the Clean Fuels and Vehicle Technology Fund.

(b) The fund consists of:

- (i) appropriations to the fund;
- (ii) other public and private contributions made under Subsection (1)(d);

(iii) interest earnings on cash balances; and
(iv) all monies collected for loan repayments and interest on loans.

(c) All money appropriated to the fund is nonlapsing.

(d) The department may accept contributions from other public and private sources for deposit into the fund.

(2) (a) Except as provided in Subsection (3), the department may make a loan or a grant with monies available in the fund for:

(i) the conversion of a private sector business vehicle or a government vehicle to use a clean fuel, if certified by the Air Quality Board under Subsection 19-1-405(1)(a);

(ii) the purchase of:

(A) an OEM vehicle for use as a private sector business vehicle or government vehicle; or

(B) a vehicle, certified by the Air Quality Board under Subsection 19-1-405(1)(d), for use as a private sector business vehicle or government vehicle;

(iii) the retrofit, certified by the Air Quality Board under Subsection 19-1-405(1)(d), of a private sector business vehicle or government vehicle;

(iv) a fuel system, certified by the Air Quality Board under Subsection 19-1-405(1)(d), for a private sector business vehicle or government vehicle; or

(v) a state match of a federal or nonfederal grant for any item under this Subsection (2)(a).

(b) The amount of a loan for any vehicle under Subsection (2)(a)(i) or (2)(a)(ii)(A) may not exceed:

(i) the actual cost of the vehicle conversion;

(ii) the incremental cost of purchasing the OEM vehicle; or

(iii) the cost of purchasing the OEM vehicle if there is no documented incremental cost.

(c) The amount of a grant for any vehicle under Subsection (2)(a)(i) or (2)(a)(ii)(A) may not exceed:

(i) 50% of the actual cost of the vehicle conversion minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant is requested; or

(ii) 50% of the incremental cost of purchasing an OEM vehicle minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant is requested.

(d) (i) Except as provided in Subsection (3) and subject to the availability of monies in the fund, the department may make a loan for the purchase of vehicle refueling equipment for a private sector business vehicle or a government vehicle.

(ii) The maximum amount loaned per installation of refueling equipment may not exceed the actual cost of the refueling equipment.

(iii) Except as provided in Subsection (3) and subject to the availability of monies in the fund, the department may make a grant for a state match of a federal or nonfederal grant for the purchase of vehicle refueling equipment for a private sector business vehicle or a government vehicle.

(3) The department may not make a loan or grant

under this part for an electric-hybrid vehicle.

(4) The department may:

(a) reimburse itself for the costs incurred in administering the fund from:

(i) the fund; or

(ii) application fees; and

(b) establish an application fee for a loan or grant from the fund by following the procedures and requirements of Section 63J-1-303.

(5) (a) The fund balance may not exceed \$10,000,000.

(b) Interest on cash balances and repayment of loans in excess of the amount necessary to maintain the fund balance at \$10,000,000 shall be deposited in the General Fund.

(6) (a) Loans made from monies in the fund shall be supported by loan documents evidencing the intent of the borrower to repay the loan.

(b) The original loan documents shall be filed with the Division of Finance and a copy shall be filed with the department.

19-1-404. Department duties -- Rulemaking -- Loan repayment.

(1) The department shall:

(a) administer the fund created in Section 19-1-403 to encourage government officials and private sector business vehicle owners and operators to obtain and use clean fuel vehicles; and

(b) by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(i) specifying the amount of money in the fund to be dedicated annually for grants;

(ii) limiting the amount of a grant given to any person claiming a tax credit under Section 59-7-605 or 59-10-1009 for the motor vehicle for which a grant is requested to assure that the sum of the tax credit and grant does not exceed:

(A) 50% of the incremental cost of the OEM vehicle; or

(B) 50% of the cost of conversion equipment;

(iii) limiting the number of motor vehicles per fleet operator that may be eligible for a grant in a year;

(iv) specifying criteria the department shall consider in prioritizing and awarding loans and grants;

(v) specifying repayment periods;

(vi) specifying procedures for:

(A) awarding loans and grants; and

(B) collecting loans;

(vii) requiring all loan and grant applicants to:

(A) apply on forms provided by the department;

(B) agree in writing to use the clean fuel for which each vehicle is converted or purchased using loan or grant proceeds for a minimum of 70% of the vehicle miles traveled beginning from the time of conversion or purchase of the vehicle;

(C) agree in writing to notify the department if a vehicle converted or purchased using loan or grant proceeds becomes inoperable through mechanical failure or accident and to pursue a remedy outlined in department

rules;

(D) provide reasonable data to the department on a vehicle converted or purchased with loan or grant proceeds; and

(E) submit a vehicle converted or purchased with loan or grant proceeds to inspections by the department as required in department rules and as necessary for administration of the loan and grant program; and

(viii) specifying the criteria for awarding a state match under Subsection 19-1-403(2).

(2) (a) When developing repayment schedules for the loans, the department shall consider the projected savings from use of the clean fuel vehicle.

(b) A repayment schedule may not exceed ten years.

(c) The department shall make a loan from the fund for a private sector vehicle at an interest rate equal to the annual return earned in the state treasurer's Public Treasurer's Pool as determined the month immediately preceding the closing date of the loan.

(d) The department shall make a loan from the fund for a government vehicle with no interest rate.

(3) The Division of Finance shall:

(a) collect and account for the loans; and

(b) have custody of all loan documents, including all notes and contracts, evidencing the indebtedness of the fund.

19-1-405. Air Quality Board duties -- Rulemaking.

(1) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Air Quality Board may make rules to:

(a) certify a motor vehicle on which conversion equipment has been installed if:

(i) before the installation of conversion equipment, the motor vehicle does not exceed the emission cut points for:

(A) a transient test driving cycle, as specified in 40 CFR 51, Appendix E to Subpart S; or

(B) an equivalent test for the make, model, and year of the motor vehicle; and

(ii) the motor vehicle's emissions of regulated pollutants, when operating with clean fuel, is less than the emissions were before the installation of conversion equipment;

(b) recognize a test or standard that demonstrates a reduction in emissions;

(c) recognize a certification standard from another state;

(d) certify a fuel, vehicle, retrofit, or fuel system if it is at least as effective in reducing air pollution as fuels under Subsection 19-1-402(1)(a) or vehicles under Subsection 19-1-402(2); or

(e) establish criteria for determining the effectiveness of a fuel, vehicle, retrofit, or fuel system in reducing air pollution.

(2) A reduction in emissions under Subsection (1)(a)(ii) is demonstrated by:

(a) certification of the conversion equipment by the federal Environmental Protection Agency or by a state

whose certification standards are recognized by the Air Quality Board;

(b) testing the motor vehicle, before and after the installation of the conversion equipment, in accordance with 40 CFR 86, Control of Air Pollution from New and In-use Motor Vehicle Engines: Certification and Test Procedures, using all fuel the motor vehicle is capable of using; or

(c) any other test or standard recognized by the Air Quality Board in rule.